

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
RENTON, WASHINGTON 98055-4056**

In the matter of the petition of

Aviation Services, Ltd. d.b.a. Freedom Air

for an exemption from § 121.314(c) of Title 14,
Code of Federal Regulations

**Regulatory Docket No.
FAA-2001-9134**

PARTIAL GRANT OF EXEMPTION

By letter of June 11, 2001, Mr. Joaquin L. Flores, Jr., General Manager, Aviation Services, Ltd. dba "Freedom Air," Guam International Airport, P.O. Box 1578, AGANA, GUAM 96932, petitioned the Federal Aviation administration for an amendment to Exemption No. 7466, issued to Freedom Air on March 15, 2001. That grant of exemption from certain requirements of § 121.314(c) allowed Freedom Air to operate, until June 20, 2001, one SD3-30 airplane beyond the cargo compartment modification deadline of March 19, 2001. The petitioner requests an extension through June 30, 2002, or through the 30th day after receipt of an approved conversion kit whichever comes first. Additional information relevant to this petition was provided in letters dated June 13, 2001, and June 15, 2001, by Mr. Ausonio R. Pellacani, Director of Safety, Freedom Air.

The petitioner requests relief from the following regulations:

Section 121.314(c) requires that after March 19, 2001, each Class D compartment, regardless of volume, must meet the standards of §§ 25.857(c) and 25.858 of this Chapter for a Class C compartment unless the operation is an all-cargo operation in which case each Class D compartment may meet the standards in § 25.857(e) for a Class E compartment.

Section 25.857(c) requires that a Class C cargo or baggage compartment have:

- (1) A separate approved smoke detector or fire detector system to give warning at the pilot or flight engineer station,
- (2) An approved built-in fire extinguishing or suppression system controllable from the cockpit,
- (3) Means to exclude hazardous quantities of smoke, flames, or extinguishing agent, from any compartment occupied by the crew or passengers, and
- (4) Means to control ventilation and drafts within the compartment so that the extinguishing agent used can control any fire that may start within the compartment.

Section 25.858 requires:

- (a) The detection system must provide a visual indication to the flight crew within one minute after the start of a fire,
- (b) The system must be capable of detecting a fire at a temperature significantly below that at which the structural integrity of the airplane is substantially decreased,
- (c) There must be means to allow the crew to check in flight, the functioning of each fire detector circuit, and
- (d) The effectiveness of the detection system must be shown for all approved operating configurations and conditions.

The petitioner's supportive information is as follows:

Source: Letter dated June 11, 2001.

“Aviation Services, Ltd., dba Freedom Air is petitioning again for additional extension to operate beyond June 20, 2001. This urgent request to extend this exemption is necessary because of the inability of Shorts Brothers to supply the conversion kit within the time promised. We are requesting an additional extension to operate under the exemption until such time as the manufacturer is able to supply the conversion kit.

This extension is critical to the economic livelihood of the island of Rota, Commonwealth of the Northern Marianas. Freedom Air is the most reliable transportation available, providing the essential passenger seats and equally important, a cargo requirement to the island.”

Source: Letter dated June 13, 2001.

“Regarding our request for additional extension to operate our Shorts SD3-30 with Class D baggage compartment beyond June 20, 2001, we submit the following provisions as amendment to our request. We feel the following provisions are necessary to provide additional safety to reasonably conform with the intent of 14CFR Part 121.314(c).

1. Check-in agents at the gate must advise passengers to remove flammable and aerosol items from all checked baggage.
2. Restrict acceptance of cargo containing flammable materials.
3. Documentation will be prepared and signed by responsible agents declaring ‘There is no flammable material of any kind loaded [in] the baggage compartments’ and given to the pilot in command.”
4. Flight crew members are to be more vigilant of what are in the baggage compartments.

“Freedom Air pledges its complete assurance of compliance of these added measures as well as other provisions that may be required by the extension.”

Source: Letter dated June 15, 2001.

“Pursuant to our telephone conversation and consultation with the Honolulu FSDO this morning, please include the following provisions to my June 13, 2001, letter.

In addition to the provisions stated in my letter of June 13, 2001, please include the following:

1. An additional fire extinguisher will be installed in the passenger compartment making the total fire extinguishers in the passenger compartment two.
2. Flight time will be limited not to exceed thirty minutes from a suitable airport.
3. Restrict carriage of Hazardous Material on passenger flights.

In consideration of the above added safety provisions we request the temporary exemption from 14 CFR 121.314(c) be further extended and allow Freedom Air to operate until June 30, 2002 or 30 days after the receipt of an approved conversion kit which ever comes first.”

[Note: Also attached to this letter was copy of a purchase order by Freedom Air for one conversion kit from Shorts.]

Due to the impending compliance date the FAA has waived the requirement to publish a summary of the petition in the Federal Register for public comment.

The Federal Aviation Administration's analysis/summary is as follows:

In drafting the previous exemption, the FAA assumed that the petitioner would work diligently with the manufacturer to secure and install the parts that are needed for compliance. Though we thought that the original 90-day extension was reasonable, we now recognize that due to apparent difficulties encountered by the petitioner, compliance cannot be met under the terms of Exemption No. 7466 and a further extension is now being sought. We do agree with the petitioner that their justification with respect to “Essential Air Service” is valid.

In a letter dated June 12, 2001, the aircraft manufacturer, Shorts, provided the FAA relevant information about the SD3-30 modification kit’s completed design and development, submittal to the U.K. CAA for approval, and availability for installation by March 2002. We have therefore determined that granting an extension to June 30, 2002, per Freedom Air’s request, is unwarranted and that such an installation should be completed by April 15, 2002, or earlier. We do recognize that a purchase order by Freedom Air has been formalized.

Although the SD3-30 airplanes’ cargo compartments meet the smoke detection and indication requirements and have a manually operated fire suppression system, we note that the difference between a fire-extinguishing agent being discharged on command from the cockpit vs. manually can be significant in terms of elapsed time from detection of fire to discharge of suppression agent and efficiency of the suppression. This is especially true for fires fueled by hazardous materials, which can propagate very quickly. We note that an accident caused by a chemical oxygen generator fire led to the adoption of the regulation from which the petitioner is seeking this exemption (Amendments 25-93 and 121-269 requiring Class D to Class C cargo compartment conversions). Note that we intend that both forward and aft cargo compartments will be converted to Class C cargo compartments by the expiration of this time extension.

To extend this exemption, we have determined that it is necessary to add additional conditions relative to the previous exemption to minimize the possibility of fire in the cargo compartment, and to minimize its impact should a fire occur, in order to provide an acceptable level of safety. The petitioner has proposed some of these conditions.

We note that Freedom Air’s proposal to advise passengers at each of its check-in counters to remove flammable and aerosol items is insufficient. While aerosol cans are a concern, the broader safety concern relates to all hazardous materials in any type of container. For the purpose of this exemption, and in order to minimize the hazard, no hazardous materials will be allowed in the cargo compartments on passenger carrying flights. As a result, an effective Checked Baggage Hazmat Screening Process must be developed and implemented.

In order to increase the likelihood of survival in the event of a cargo compartment fire, we are placing a time-to-safe-landing limit of 30 minutes on all flights. In addition, two

fire extinguishing bottles must be located in the passenger compartment as close as possible to the rear cargo compartment (the larger of the two cargo compartments) to provide sufficient extinguishing agent should a fire occur in that compartment.

In order to determine the development status, the petitioner must submit a monthly progress report in sufficient detail to the FAA.

This amendment refers to the same airplanes identified in the section "Description of Each Aircraft to be Covered" in Exemption No. 7466.

In consideration of the foregoing, I find that a grant of exemption is in the public interest and will not adversely affect the level of safety provided by the regulations. Therefore, pursuant to the authority contained in 49 U.S.C. 40113 and 44701, delegated to me by the Administrator, the petition of Aviation Services Ltd., d.b.a. Freedom Air, for an amendment to Exemption 7466 from the provisions of § 121.314(c) is hereby granted. This exemption is granted to the extent necessary to allow its one Model SD3-30 airplane to operate through April 15, 2002, or through the 30th day after delivery to Freedom Air of the aircraft modification kit by the aircraft manufacturer, whichever is sooner, and is subject to the following provisions:

Within 30 days of the grant of this exemption:

1. Petitioner must develop and implement a Checked Baggage Hazmat Screening Process, to minimize the possibility that hazardous materials will be checked as baggage, that is acceptable to Freedom Air's Principal Operations Inspector.
2. Two Fire Extinguishing Bottles will be carried in the passenger compartment as close as possible to the rear cargo compartment (as well as a third one in the flight deck compartment).
3. A Flight Time Limit to a suitable landing site (30 minutes) will be applicable.
4. No hazardous material shall be carried in the cargo compartments on passenger flights.
5. A Monthly Progress Report in sufficient detail must be submitted to this office, as well as to the Freedom Air Principal Operations Inspector.

All other provisions of Exemption 7466, together with associated conditions and limitations, remain the same and are applicable to this amendment. This amendment is part of, and shall be attached to, Exemption 7466.

Issued in Renton, Washington, on June 18, 2001.

/s/ K. C. Yanamura

K. C. Yanamura

Acting Manager

Transport Airplane Directorate

Aircraft Certification Service, ANM-100